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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

MAURICE NATHANIEL BONDS,

Defendant and Appellant.

B213500

(Los Angeles County
Super. Ct. No. BA340210)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Jose I. Sandoval and Marcelita Haynes, Judges. Affirmed.

Lisa Holder, under appointment by the Court of Appeal, for Defendant and
Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant
Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Linda C.
Johnson and Michael A. Katz, Deputy Attorneys General, for Plaintiff and Respondent.

Maurice Nathaniel Bonds appeals from the judgment entered following his conviction by a jury of possession of cocaine. (Health & Saf. Code, § 11350.) He contends the trial court deprived him of his Sixth Amendment rights by limiting his cross-examination of a key prosecution witness.¹ We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. Information

Bonds was charged by information with one count of possession for sale of cocaine base (Health & Saf. Code, § 11351.5). The information specially alleged Bonds had previously suffered one prior serious or violent felony conviction within the meaning of the “Three Strikes” law (Pen. Code, §§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d)) and had served 10 separate prison terms for felonies (Pen. Code, § 667.5, subd. (b)).

2. Summary of Trial Evidence

a. Prosecution Evidence

Los Angeles Police Department narcotics enforcement officers were working undercover in the “skid row” area of downtown Los Angeles on the evening of May 6, 2008. One of the officers, Guillermo Avila, was sitting inside an unmarked van and watching street activity through binoculars. Avila saw Bonds, standing about 40 feet away on the sidewalk. Surrounding Bonds were several men, who were reaching towards Bonds with cash in their hands. Bonds put the cash inside his right front pocket, and handed each man an off-white object that Bonds had taken from a black plastic “bindle” or a piece of plastic.

¹ Pursuant to *People v. Mooc* (2001) 26 Cal.4th 1216, Bonds has requested that we examine the transcript of the in camera hearing conducted by the trial court after it determined Bonds had demonstrated good cause to discover information in named officers’ personnel and administrative records pertaining to “fabrication of evidence, false arrest, perjury, dishonesty, and planting of evidence.” (See Evid. Code, §§ 1043, 1045; *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.) We have reviewed the sealed record of the proceedings and conclude the trial court satisfied the minimum requirements in ruling on the material to be disclosed. (*Mooc*, at p. 1229.)

Believing he had just witnessed a narcotics transaction, Officer Avila alerted nearby uniformed officers, who arrested Bonds within seconds. Officer Jorge Trejo searched Bonds. From the “coin pocket” of Bonds’s pants, Trejo recovered a black plastic bindle, inside of which were numerous off-white objects that later tested negative for cocaine. Bonds was transported to the police station, where Avila discovered Bonds had \$44 in cash on his person. Bonds was thereafter subjected to a prebooking strip search by Officer Paul Valencia, who found two more off-white objects, one in each front pocket of Bonds’s pants, that tested positive for cocaine.

b. Cross-Examination of Officer Avila

Bonds’s appeal arises as a result of the trial court having sustained the prosecutor’s objection to a question posed by defense counsel in cross-examining Officer Avila.

On direct examination, the prosecutor asked Avila whether he had searched Bonds at any time at the police station. Avila answered, “I don’t know if you consider searching taking money from his right pants pocket.” The prosecutor inquired, “Where was it that you – when and where did you take money from Mr. Bonds right front pants pocket?” Avila replied, “Mr. Bonds was sitting down in our benches in [sic] custody in handcuffs, and I asked him if he had any additional contraband. He told me, ‘Yes,’ and I recovered it from his right front pants pocket.” The prosecutor clarified, “Being the cash?” Avila answered, “Yes.”

On cross-examination, defense counsel asked Officer Avila, “And you indicated that you were the one that recovered the money from Mr. Bonds later at the station?” Avila answered, “Yes.” Defense counsel continued, “Okay. And you indicated that in order to get that money, you went into his pocket to take out the money; correct?” Avila again answered, “Yes.” Defense counsel then asked, “Did you do that because he was handcuffed, or what was the reason that you went into his pockets?” The prosecutor immediately objected, contesting the relevance of the answer. The trial court sustained the objection, explaining, “I think [Avila] testified earlier that he inquired of the

defendant.” Defense counsel immediately began questioning Avila about other related areas.

c. Defense Evidence

Bonds did not testify in his defense. Two witnesses from prior cases testified to impeach the credibility of Officers Valencia and Trejo. According to Jahangir Yamtob, a gem dealer in downtown Los Angeles, Valencia repeatedly testified falsely in Yamtob’s civil suit for battery against security guards who worked in his office building. Ricardo Nartates, who pleaded no contest to possession of a controlled substance, testified Officer Trejo had planted evidence of cocaine in that case and falsely testified at the preliminary hearing.

3. *Verdict and Sentencing*

The jury acquitted Bonds of possession of cocaine base for sale, but found him guilty of the lesser included offense of possession of cocaine. In a bifurcated proceeding, Bonds waived his right to trial and admitted he had previously served three prior terms and had suffered one prior strike conviction.

The trial court sentenced Bonds to an aggregate state prison term of six years, consisting of the upper three-year term for possession of cocaine, plus three years for the prior prison term enhancements. The trial court struck the prior strike conviction and the remaining prior prison term enhancements in furtherance of justice.

DISCUSSION

The confrontation clause affords a criminal defendant the right to both physically face the witnesses testifying against him or her, and to cross-examine those witnesses. (*Davis v. Alaska* (1974) 415 U.S. 308, 315-316 [94 S.Ct. 1105, 39 L.Ed.2d 347].) The defendant may also elicit evidence on cross-examination that establishes or bolsters a defense. (See *Crane v. Kentucky* (1986) 476 U.S. 683, 690 [Sixth Amendment and due process right to present a defense].) However, trial judges “retain[] wide latitude in restricting cross-examination that is repetitive, prejudicial, confusing of the issues, or of marginal relevance,” and it is settled that “not every restriction on a defendant’s desired method of cross-examination is a constitutional violation.” (*People v. Chatman* (2006)

38 Cal.4th 344, 372; see also *Delaware v. Van Arsdall* (1986) 475 U.S. 673, 678-679 [106 S.Ct. 1431, 89 L.Ed.2d 674].) To establish a violation of the right to cross-examine, a defendant must show he or she ““was prohibited from engaging in otherwise appropriate cross-examination designed to show a prototypical form of bias on the part of the witness, and thereby, ‘to expose to the jury the facts from which jurors . . . could appropriately draw inferences relating to the reliability of the witness.’” [Citations.]”” (*People v. Chatman, supra*, 38 Cal.4th at p. 372; see also *People v. Williams* (1997) 16 Cal.4th 153, 207-208.) “[U]nless the defendant can show that the prohibited cross-examination would have produced “a significantly different impression of [the witnesses’] credibility” [citation], the trial court’s exercise of its discretion in this regard does not violate the Sixth Amendment.’ [Citation.]” (*People v. Chatman, supra*, 38 Cal.4th at p. 372.)

The theory of Bonds’s defense was the officers involved in his arrest and subsequent searches planted the contraband. Bonds argues in support of his defense theory he was entitled to examine Avila’s motives for searching him, and to test the officer’s credibility before the jury. Bonds maintains in sustaining the prosecutor’s relevance objection, the trial court denied him his right to confront Avila, by preventing defense counsel from developing evidence to support his defense theory and to compromise Avila’s credibility.

Bonds’s Sixth Amendment rights were not violated as a result of the trial court sustaining the question as to why Officer Avila retrieved the cash from Bonds’s pocket. The trial court did not preclude the question on the ground of relevance. Rather, as the court explained, it was sustaining its own objection to the question as eliciting repetitive testimony. This ruling was entirely within the court’s discretion. Other than to prevent this single question from being asked (again), the trial court did not restrict the cross-examination of Avila. Defense counsel could have asked Avila non-objectionable questions about this particular search for the purpose of showing the officer’s illicit motive or bias or to impeach the officer’s credibility. Defense counsel did not ask any

other questions regarding the search or request a sidebar conference to justify asking this specific question.

The record reflects Avila was cross-examined at length not only as to his own conduct, but also as to his knowledge of and involvement in the conduct of fellow officers Trejo and Valencia, who also testified. Accordingly, defense counsel had, and took full advantage of, the opportunity to place these three witnesses in their proper light, and to put the weight of their testimony and credibility to a reasonable test, which allowed the fact finder fairly to appraise it. (See *In re Ryan N.* (2001) 92 Cal.App.4th 1359, 1386.) Indeed, the jury discounted Avila's testimony concerning the officer's seizure of cash when it acquitted Bonds of the charged offense of possession of cocaine for sale and convicted him of the lesser included offense of simple possession.

DISPOSITION

The judgment is affirmed.

WOODS, Acting P. J.

We concur:

ZELON, J.

JACKSON, J.